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PART IV

Acts of the Dominion Legislature assented to by the Governor General

GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, The 20th September, 1948

The following Acts of the Dominion Legislature received the assent of the Governor General on the 20th September, 1948 and are hereby published for general information:—

ACT No. LX OF 1948

An Act to provide for the speedy acquisition of land for the resettlement of displaced persons

WHEREAS it is expedient to provide for the speedy acquisition of land for the resettlement of displaced persons and for matters incidental thereto;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Resettlement of Displaced Persons (Land Acquisition) Act, 1948.

(2) It extends to the Chief Commissioners' Provinces of Delhi and Ajmer-Merwara.

2. Definitions.—In this Act—

(a) "competent authority" means the Collector and includes any other person appointed by the Provincial Government, by notification in the official Gazette, to perform all or any of the functions of a competent authority under this Act;

(b) "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area now forming part of Pakistan, has been displaced from or has left his place of residence in such area after the 1st day of March, 1947, and who has subsequently been residing in India; and

(c) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

3. Notice of acquisition of land.—(1) Whenever it appears to the Provincial Government that it is necessary or expedient to acquire speedily any land for

the resettlement of displaced persons, a notification to that effect shall be published in the official Gazette stating the area and the boundaries of the land proposed to be acquired and the date on which such acquisition will be made, and the competent authority shall cause public notice of the substance of such notification to be given at convenient places on or near the land to be acquired.

(2) Nothing in sub-section (1) shall empower the Provincial Government to acquire any land which is being used for the purpose of a school, orphanage or hospital or is being used exclusively for the purpose of religious worship.

4. Service on owner or occupier affected by notice of acquisition.—As soon as may be after the publication of the notification under section 3, the competent authority shall cause to be served by registered post on the owner of the land and also on the occupier in cases where the owner is not in occupation of the land or, where the person to be served is not readily traceable or the ownership of the land is in dispute, shall publish in the official Gazette, a notice stating the particulars specified in sub-section (1) of section 3.

5. Vesting and taking possession of land.—(1) When a notice of acquisition is served or is published under section 4, the land shall vest absolutely in the Provincial Government free from all encumbrances on the date the notice is so served or published in the official Gazette.

(2) The competent authority may, at any time after the land has become so vested, proceed to take possession thereof:

Provided that such authority shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

6. Objections to acquisition.—(1) Any person interested in any land which has become vested in the Provincial Government under section 5 may, within one month from the vesting thereof, file his objection, if any, to the acquisition before the competent authority and such authority may, after making such enquiry as it thinks fit, either dismiss the objection or release the land in respect of which objection has been filed from acquisition.

(2) If any land is released from acquisition under sub-section (1), it shall be deemed to revert in the person originally entitled thereto and any encumbrance, which may have been extinguished under section 5, shall revive.

7. Method of determining compensation.—(1) Where any land has been acquired under this Act, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court.

(c) the Provincial Government may, in any particular case, nominate a person having expert knowledge as to the nature and condition of the land acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(e) the arbitrator, in making his award, shall have due regard to the provisions of sub-section (1) of section 28 of the Land Acquisition Act, 1894 (1 of 1894):

Provided that the market value referred to in clause *first* of sub-section (1) of section 28 of the said Act shall be deemed to be the market value of such land on the date of publication of the notice under section 3, or on the first day of September, 1939, with an addition of 40 per cent, whichever is less:

Provided further that where such land has been held by the owner thereof under a purchase made before the first day of April, 1948, but after the first day of September, 1939, by a registered document, or a decree for pre-emption between the aforesaid dates, the compensation shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land in the decree for pre-emption, as the case may be.

(2) The arbitrator shall, in awarding any compensation under this section, apportion the amount thereof between such persons, if any, as may appear to him to be entitled thereto.

(3) An appeal shall lie to the High Court from the award of the arbitrator appointed under this Act, and the decision of the High Court shall be final.

(4) Save as provided in this section, nothing in any law for the time being in force shall apply to arbitrations under this section.

8. Payment of compensation.—The compensation awarded shall be paid by the competent authority to the person entitled thereto according to the award:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

9. Power to secure information.—The Provincial Government or the competent authority may, with a view to determining the compensation payable under this Act, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to the land that may be so specified.

10. Disposal of land.—Subject to such rules as may be made by the Provincial Government, the competent authority may use or deal with any land acquired under the provisions of this Act in such manner and subject to such conditions as may appear to it to be expedient for the purpose of resettling displaced persons:

Provided that no displaced person to whom any land has been allotted under the provisions of this section shall transfer such land to any other person except with the previous consent of the competent authority.

11. Penalties.—Whoever wilfully obstructs any person in lawfully taking possession of any land under this Act or refuses to furnish any information as required by section 9 shall be punishable with imprisonment which may extend to one month or with fine which may extend to fifty rupees or with both.

12. Exemption from stamp duty and fees.—No award or agreement under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

13. Protection for action done in good faith.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

14. Power to make rules.—(1) The Provincial Government may make rules to carry out the objects of this Act and for the guidance of officers in all matters connected with its enforcement.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the manner in which land acquired under this Act may be used or dealt with;

(b) the procedure to be followed in arbitrations under this Act;

(c) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal.

15. Repeal of Ordinance XX of 1948.—(1) The Resettlement of Displaced Persons (Land Acquisition) Ordinance, 1948 (XX of 1948) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 2nd day of August, 1948

ACT No. LXI OF 1948

An Act to provide for the development under Central control of the raw silk industry and for that purpose to establish a Central Silk Board

WHEREAS it is expedient to provide for the development under Central control of the raw silk industry and for that purpose to establish a Central Silk Board;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Central Silk Board Act, 1948.

(2) It extends to all the Provinces of India, and also to any Acceding State for which the Dominion Legislature has for the time being power to make laws as respects the development of the raw silk industry.

2. Declaration as to expediency of Central Government's control.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the raw silk industry.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" means the Central Silk Board constituted under this Act;

(b) "charkha raw silk" means raw silk reeled from silk worm cocoons with the help of any instrument not worked by power;

(c) "filature raw silk" means raw silk reeled from silk worm cocoons with the help of any instrument worked by power;

(d) "power" means any form of energy which is mechanically transmitted and is not generated by human or animal agency, and includes electrical energy;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "spun silk" means silk yarn spun from pierced or spoilt cocoons, fluff from cocoons, pieces of silk, noils, or other silk waste;

(g) "Standing Committee" means the Standing Committee of the Board constituted under sub-section (2) of section 6.

4. Constitution of the Board.—(1) As soon as may be after the commencement of this Act, the Central Government shall, by notification in the official Gazette, constitute for the purposes of this Act a Board to be called the Central Silk Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of the following members, namely:—

(a) the Minister in charge of Industry and Supply in the Central Government, who shall *ex officio* be Chairman of the Board;

(b) not more than three officials to be nominated by the Central Government;

(c) two persons elected by the members of the Central Legislature, from among themselves, in such manner as may be prescribed;

(d) four persons to be nominated by the Government of Mysore, of whom one shall be a representative of the filature raw silk industry and two shall be representatives of the rest of the sericulture industry;

(e) two persons to be nominated by the Government of Madras, of whom at least one shall be a non-official;

(f) two persons to be nominated by the Government of West Bengal, of whom at least one shall be a non-official;

(g) one person to be nominated by the Government of Jammu and Kashmir;

(h) one person to be nominated by each of the Governments of Assam, the Central Provinces and Berar, the United Provinces, Bombay, and Bihar;

(i) not more than three persons to be nominated by the Central Government to represent (i) producers of raw silk, and (ii) areas other than the Provinces and States specified in clauses (d) to (h);

(j) five persons to be nominated by the Central Government, of whom one shall be a representative of the spun silk industry, one of the silk throwing and twisting industry, and one of the silk weaving industry, and two shall be sericultural experts.

(4) The members of the Board shall receive from its funds such travelling and other allowances as may be prescribed.

5. Power of the Central Government in default of nominations.—(1) If any Government other than the Central Government fails to make any nomination which it is entitled to make under sub-section (3) of section 4 within the time prescribed in that behalf, the Central Government may make the nomination itself.

(2) Where a member of the Board dies, resigns, is removed, ceases to reside in India, or becomes incapable of acting, the authority or body entitled to nominate the member under sub-section (3) of section 4 may nominate a person to fill the vacancy; and where such nomination is not made within the time prescribed in that behalf, the Central Government on its own initiative, may make the nomination itself.

(3) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

6. Vice-Chairman and Standing Committee.—(1) The Board shall elect from among its members a Vice-Chairman who shall exercise such of the powers and perform such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(2) The Board may, in its discretion, constitute a Standing Committee for the purpose of exercising such of its powers and performing such of its duties as may be delegated by it, not being powers or duties the delegation of which is prohibited by rules made under this Act.

(3) The Standing Committee shall consist of the Chairman, the Vice-Chairman, and five others elected by the Board from among its members.

7. Secretary of the Board.—The Central Government shall, in consultation with the Board, appoint a Secretary to the Board who shall, under the control and direction of the Board, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman.

8. Functions of the Board.—(1) It shall be the duty of the Board to promote the development of the raw silk industry by such measures as it thinks fit

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—

(a) undertaking, assisting or encouraging scientific, technological and economic research;

(b) devising means for improved methods of mulberry cultivation rearing, developing and distributing healthy silkworm seeds, reeling of silkworm cocoons, improving the quality and production of raw silk, if necessary, by making it compulsory for all raw silk to be marketed only after the same has been tested and graded in properly equipped raw silk conditioning houses;

(c) the supply of technical advice to filature and *charkha* reellers;

(d) improving the marketing of raw silk;

(e) the collection of statistics from such persons as may be prescribed.

(3) It shall also be the duty of the Board—

(a) to advise the Central Government on all matters relating to the development of the raw silk industry, including the import and export of raw silk;

(b) to submit to the Central Government and such other authorities as may be prescribed half-yearly reports on its activities and the working of this Act;

(c) to prepare and furnish such other reports relating to the raw silk industry as may be required by the Central Government from time to time.

9. Funds of the Board.—(1) The Central Government shall from time to time make grants to the Board of such sums as the Central Government may consider necessary for enabling the Board to exercise its powers and discharge its duties under this Act.

(2) The funds of the Board shall be kept in such bank, or invested in such manner, as may be prescribed, and shall be expended by the Board only in the performance of its functions under this Act or for meeting such expenses as are authorised by this Act or by rules made thereunder.

10. Imposition of cess on certain kinds of silk.—(1) With effect from such date as the Central Government may, by notification in the official Gazette appoint, there shall be levied and collected as a cess for the purposes of this Act a duty of excise on all filature raw silk, and on all spun silk, reeled in the territories to which this Act for the time being extends at such rate as the Central Government may, by notification in the official Gazette, from time to time fix.

(2) The said duty of excise shall be payable by the reelers of filature raw silk or spun silk and shall be paid by them to the Board within one month from the date of the receipt of the notice of demand from the Board in that behalf.

(3) The said duty of excise may be recovered as if it were an arrear of land revenue.

(4) For the purpose of enabling the Board to assess the amount of the duty of excise payable under this section by the reelers of filature raw silk or spun silk,—

(a) the Board shall, by notification in the official Gazette, fix the period in respect of which assessments shall be made, and

(b) every reeler of filature raw silk or spun silk shall furnish to the Board within the prescribed time a return specifying the total amount of filature raw silk or spun silk reeled during such period.

(5) If any reeler of filature raw silk or spun silk fails to furnish such return within the prescribed time or furnishes a return which the Board has reason to believe to be incorrect or defective, the Board may assess the amount payable by such reeler in such manner as may be prescribed.

(6) Any reeler feeling himself aggrieved by an assessment made under this section may, within three months of the receipt of the notice under sub-section (2), apply to the District Judge or such other civil judicial officer as may be prescribed, for the cancellation or modification of the assessment; and such District Judge or judicial officer shall, after giving the Board an opportunity of being heard, pass such order as he thinks proper, and such order shall be final.

11. Control by the Central Government.—(1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken, or order passed, by the Board.

(2) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

12. Accounts of the Board.—(1) The Board shall keep such accounts, and in such manner and form, as may be prescribed, in respect of all moneys received and expended by it.

(2) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have the power to disallow any item of expenditure which in their opinion has not been properly incurred for the purposes of this Act.

(3) The Central Government may, on the application of the Board, allow any item of expenditure disallowed by the auditors under sub-section (2).

13. Power of Central Government to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed at meetings of the Board or Standing Committee;

(b) the election of the Vice-Chairman of the Board; and the delegation to the Standing Committee, to the Vice-Chairman, or to members or officers of the Board, of any of the powers and duties of the Board under this Act;

- (c) the staff to be employed by the Board;
- (d) the pay, allowances, leave and other conditions of service of officers and servants of the Board;
- (e) the travelling and other allowances of the members of the Board;
- (f) the establishment and maintenance of offices by the Board;
- (g) the term of office of members of the Board, and the circumstances in which, and the authority by which, they may be removed;
- (h) the quorum at meetings of the Board or Standing Committee;
- (i) the maintenance by the Board or Standing Committee of records of its business and the submission of copies thereof to the Central Government;
- (j) the purposes for which the funds of the Board may be expended;
- (k) the maintenance of the accounts of the income and expenditure of the Board and the audit of such accounts;
- (l) the preparation of annual estimates of the income and expenditure of the Board;
- (m) the deposit of the funds of the Board in banks and the investment of such funds;
- (n) the registers, and other records to be maintained by the Board or Standing Committee;
- (o) the manner in which raw silk shall be graded and marketed;
- (p) any other matter which is to be or may be prescribed under this Act

14. Penalties.—If any person—

- (a) in any return to be furnished under this Act makes any statement which is false and which he knows to be false or does not believe to be true, or
- (b) obstructs any officer of the Board in the exercise of any power conferred, or the discharge of any duty imposed, on him by or under this Act, or
- (c) having the control or custody of any account book or other record, fails to produce such book or record when required so to do under this Act, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

15. Prosecution to be with consent of Central Government.—No prosecution for any offence punishable under this Act shall be instituted except by, or with the consent of, the Central Government

16. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against the Board, or any member or officer of the Board, for anything in good faith done or intended to be done under this Act.

17. Temporary powers of the Central Government.—Until such time as the Board is constituted under section 4, the Central Government may, notwithstanding anything contained in this Act, exercise any of the powers conferred, or discharge any of the duties imposed, by this Act upon the Board.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.